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VIA HAND DELIVERY

July 22, 2011

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Room TW-A325
Washington, D.C. 20554

FILED/ACCEPTED

JUL 22 2011

Federal Communications Commission
Office of the Secretary

**Re: REDACTED FOR PUBLIC INSPECTION
Request for Review by Blackfoot Communications, Inc. of Decision of
Universal Service Administrator
WC Docket No. 06-122**

Dear Ms. Dortch:

Blackfoot Communications, Inc. ("BCI"), by its attorneys, and pursuant to Section 54.721 of the Rules and Regulations of the Federal Communications Commission ("FCC or Commission"), 47 C.F.R. § 54.721, hereby submits an original and four copies of the redacted version of its Request for Review by Blackfoot Communications, Inc. of Decision of Universal Service Administrator ("Request for Review").

Confidential versions of the Request for Review are being submitted under separate cover.

Also enclosed is an additional copy of this filing. Please date-stamp this copy and return it with the courier. Contact the undersigned counsel at (202) 600-7274 if you have any questions regarding this filing.

Sincerely,



Gregory W. Whiteaker
Counsel for Blackfoot Communications, Inc.

Enclosures

No. of Copies rec'd 0+4
List A B C D E

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FILED/ACCEPTED

In the matter of)
Request for Review)
By Blackfoot Communications Inc.)
Of Decision of Universal Service)
Administrator)
)

JUL 22 2011

Federal Communications Commission
Office of the Secretary

WC Docket No. 06-122

**REQUEST FOR REVIEW BY BLACKFOOT COMMUNICATIONS, INC. OF
DECISION OF UNIVERSAL SERVICE ADMINISTRATOR**

Pursuant to sections 54.719(c), 54.720, and 54.721 of the rules and regulations of the Federal Communications Commission (“FCC” or “Commission”),¹ Blackfoot Communications Inc. (“BCI”), by its attorneys, hereby requests review of a decision of the Universal Service Administrator (“USAC” or “Administrator”) to reclassify a portion of the fixed local service revenues reported by BCI in its 2010 Telecommunications Reporting Worksheet, FCC Form 499-A (“BCI Form 499-A”), as interstate revenues for the purpose of calculating BCI’s Universal Service Fund (“USF”) contribution.² For the reasons discussed herein, the Commission should reverse USAC’s decision.

I. BACKGROUND

A. Blackfoot Communications, Inc.

BCI is a small competitive local exchange carrier (“CLEC”) with headquarters in Missoula, Montana. BCI provides local exchange and exchange access service, primarily to business users, in Missoula, Montana and the surrounding area. BCI’s end user rates are not

¹ 47 C.F.R. §§ 54.719(c), 54.720, and 54.721.

² Administrator’s Decision on Fixed Local Issue, Letter to Theodore Otis, Chief Financial Officer, Blackfoot Communications, Inc. (June 1, 2011) (“Decision Letter”). A copy of the Decision Letter is attached hereto as Attachment I.

regulated by the state of Montana or the FCC. BCI also provides resold long distance service and allocates and reports the interstate portion of such revenues.

BCI provides exchange access service, and bills and collects interstate access charges from providers of interstate interexchange service, pursuant to BCI's applicable interstate access tariff. BCI does not intend or purport to recover the cost of providing access to interstate interexchange service other than through its applicable access charges. As explained in greater detail below, BCI does not charge a federal Subscriber Line Charge ("SLC"), and treats all of its fixed local service revenues as intrastate revenues.

BCI submitted the BCI Form 499-A in April of 2010. On the form, BCI reported 100% of its fixed local service revenue as intrastate on line 404.3. BCI reported no SLC revenue on line 405. BCI reported its long distance revenues on line 414.1, including the interstate portion of such revenues in column (d).

B. USAC Decision

On October 27, 2010, USAC sent a letter to BCI seeking information on why no portion of the fixed local services revenues reported by BCI on the BCI Form 499-A were broken out as interstate revenues.³ USAC also asked whether BCI imposed a separate federal SLC on its local exchange customers, or passed an underlying carrier's federal SLC on to BCI's local exchange customers.⁴ Citing only the instructions to FCC Form 499-A as authority, USAC informed BCI that with or without SLC revenue, all carriers "must identify the interstate portion of fixed local

³ See Letter from Debbi Tosi, Sr. Financial Analyst, USAC, to Brenda Marsh of Blackfoot Communications, Inc. (Oct. 27, 2010) ("USAC Inquiry Letter"), Attachment A to Decision Letter.

⁴ See *id.*

exchange service revenues as those revenues correspond to the costs associated with allowing customers to originate and terminate interstate calls.”⁵

In response to the above-referenced questions, BCI, among other things, explained that it does not break out any local exchange revenue as interstate revenue because it does not charge or pass through a federal SLC and has not identified any other interstate rate element targeted to recover the local loop.⁶ BCI also explained that for the purpose of bill presentation to its residential customers, BCI includes a line item labeled “subscriber access charge”. This allows residential customers to compare apples-to-apples when comparing BCI’s rates to those of competitors. The label, however, is for bill presentation only. BCI does not have a federally tariffed SLC, and treats all its fixed service revenues as intrastate revenues for all purposes.

In a follow-up communication to BCI, USAC again stated that the instructions to Form 499-A required all carriers, including CLECs, to identify and report the interstate portion of fixed local exchange revenue.⁷ USAC also suggested four methods that BCI could use to determine the interstate portion of its fixed local service revenues. USAC, did not, however, cite any specific rule or order directing or authorizing CLECs such as BCI to use the four suggested methods.

On June 1, 2011, USAC issued the Decision Letter. Citing only the instructions to the FCC Form 499-A (the “Instructions”), USAC stated, “[P]er the Instructions, when a filer does not charge a SLC, the filer is required to report the interstate portion of fixed local exchange

⁵ *Id* at p. 1, *citing* FCC Form 499-A Instructions (2010), at p. 25.

⁶ *See* Email from Carol Giamona, Manager, General Accounting, Blackfoot Communications, Inc., to Debbie Tosi, USAC (Jan. 14, 2011), Attachment B to Decision Letter.

⁷ *See* Email from Debbie Tosi, USAC, to Carol Giamona, BCI (March 1, 2011), Attachment C to Decision Letter.

service revenues.”⁸ USAC further stated that in the absence of additional information regarding the interstate portion of BCI’s fixed local service revenues, USAC would create an estimate of the interstate portion of the 2010 revenue. This estimate would be based on the national average percentage of the fixed local exchange revenues from calendar year 2008 reported as interstate by the Regional Bell Operating Companies. USAC further directed that the resulting estimate would be reported on line 404.3 as interstate revenues.⁹ Upon completion of this reclassification, USAC would bill BCI for the additional interstate USF contribution amount during the third quarter of 2011.¹⁰

As demonstrated below, USAC’s decision to reclassify a portion of BCI’s intrastate fixed local service revenues as interstate revenues is not supported by any enforceable Commission rule, order, or binding legal obligation and is not otherwise consistent with the Commission’s regulation (or deregulation) of CLECs. The decision was therefore erroneous and must be reversed.¹¹

⁸ Decision Letter at p. 1, *citing* Instructions at p. 25.

⁹ By letter dated July 7, 2011, USAC notified BCI that USAC had revised the BCI Form 499-A pursuant to the Decision Letter.

¹⁰ Decision Letter at p.2.

¹¹ Although BCI seeks review of the USAC Decision Letter, BCI will pay the disputed amounts under protest if the Commission has not decided this matter prior to USAC invoicing BCI for the disputed amounts. BCI also expressly reserves its right to a refund of any disputed amounts paid should the Commission grant the Petition for Declaratory Ruling filed by the Rural Independent Competitive Alliance April 26, 2011 in the above-captioned and related proceedings (“RICA Petition”), or as otherwise consistent with the Commission’s disposition of the issues raised therein.

C. Standard of Review

Under section 54.723(b) of the Commission’s Rules, requests for review of the Administrator’s decisions are reviewed by the Commission *de novo*.¹² Section 54.724 instructs the Bureau to issue a written decision in response to requests for review of a USAC decision within ninety (90) days.¹³

II. **BCI IS NOT LEGALLY OBLIGATED TO ALLOCATE A PORTION OF ITS LOCAL SERVICE REVENUES FROM THE PROVISION OF INTRASTATE SERVICE AS “INTERSTATE REVENUES”**

USAC erred in its decision to reclassify a portion of the intrastate revenues reported in BCI’s Form 499-A as interstate revenues since no FCC rule, order, or binding legal obligation requires a CLEC such as BCI to designate a portion of its intrastate fixed local services revenues as interstate revenues on FCC Form 499-A. Although the Commission may have the authority to adopt a rule imposing such a substantive obligation after conducting a notice and comment rulemaking, the Commission has not done so, and neither USAC nor the Wireline Competition Bureau (the “Bureau”) have the authority to create such an obligation.

A. **There Is No Binding Legal Obligation that a CLEC Report a Portion of Its Fixed Local Service Revenues for Services Provided Entirely Within One State as Interstate Revenues**

There is no binding rule, order, or legal obligation that BCI, a CLEC, report a portion of its fixed local service revenues derived from the provision of service within a single state, as interstate revenues on FCC Form 499-A.¹⁴ As the Rural Independent Competitive Alliance

¹² 47 C.F.R. § 54.723(b); *see also in re Changes to the Board of Directors of the National Exchange Carrier Association, Inc., et al.*, Third Report and Order, Fourth Order on Reconsideration, and Eight Order on Reconsideration, 13 FCC Rcd 25058, ¶ 16 (1998).

¹³ *See* 47 C.F.R. § 54.724(a).

¹⁴ *See* RICA Petition; *see also in re* Grande Communications Request for Review of Decision of the Universal Service Administrator, WC Docket No. 06-122 (filed Dec. 28, 2009) (“Grande Request”); Comments of Grande Communications Networks, LLC (filed June 6, 2011).

(“RICA”) correctly argued in its Petition, the Commission has never purported to apply its jurisdictional separations regime to CLECs, nor has the Commission adopted a mechanism by which CLECs are to apportion their costs to recover from their end user telephone subscribers, a portion of the costs of originating and terminating interstate calls.¹⁵

All of BCI’s reported fixed local service revenues are derived from the provision of local service within the State of Montana. This revenue is entirely intrastate, and BCI has consistently treated it as such for all purposes (e.g., accounting and state tax). BCI does not charge a federally tariffed SLC, and does not recover from its end user customers a portion of BCI’s costs for providing interstate access service. Instead, BCI has determined to recover these costs through its tariffed interstate access charges. Because BCI’s fixed local service revenues are intrastate revenues derived from the provision of service within a single state and no legal obligation requires an allocation otherwise, BCI correctly reported such revenues as 100% intrastate on the BCI Form 499-A.

B. The Bureau Lacks Authority to Create Substantive Obligations Through the Promulgation of “Instructions” or Otherwise

As support for its Decision Letter, USAC cites only the Instructions at page 25. Although USAC may consider itself bound by these Instructions,¹⁶ they do not constitute legally enforceable obligations of reporting carriers. The Instructions at issue apparently were promulgated by the Bureau. They were not adopted by the Commission pursuant to a notice and comment rulemaking proceeding or by the Bureau pursuant to the lawful exercise of delegated

¹⁵ See, e.g., RICA Petition at p. 6-7.

¹⁶ It is axiomatic that USAC itself could not create the substantive obligation at issue here. Section 54.702(c) provides, “The Administrator may not make policy, interpret unclear provisions of the statute or rules, or interpret the intent of Congress.” 47 C.F.R. § 54.702(c).

authority.¹⁷ The Instructions, therefore, may not create a substantive legal obligation under the Administrative Procedure Act.¹⁸

In 1999, the Commission delegated the then Common Carrier Bureau the authority to make changes to the administrative aspects of the Universal Service contribution reporting requirements.¹⁹ The Commission, however, reaffirmed that the “delegation extend[ed] only to making changes to the administrative aspects of the reporting requirements, not to the substance of the underlying programs.”²⁰ The Bureau may not modify the instructions to the FCC Form 499-A to impose substantive obligations on carriers beyond those authorized in the Commission’s rules.²¹

Requiring BCI to allocate a portion of its intrastate local service revenues as interstate revenues – and to make additional USF payments based on such reclassification – imposes a substantive obligation on BCI. Such an obligation may only be imposed pursuant to administrative due process consistent with the APA and other applicable law.²² Absent

¹⁷ See RICA Petition at pp. 3-5.

¹⁸ 5 U.S.C. §§ 500 *et seq.*

¹⁹ See 1998 Biennial Regulatory Review – Streamlined Contributor Reporting Requirements Associated with Administration of Telecommunications Relay Services, North American Numbering Plan, *et al.*, Report and Order, 14 FCC Rcd 16602, ¶ 39 (1999) (“USF Contribution Reporting Order”).

²⁰ *Id.* at ¶ 40 (footnote omitted).

²¹ See, e.g., RICA Petition at pp. 3-5.

²² Other parties in this docketed proceeding have challenged the validity of substantive legal obligations imposed without notice and comment rule making proceedings and/or without delegated legal authority. See, e.g., Application for Review of Action Taken Pursuant to Delegated Authority filed by AT&T, Inc. (Sept. 12, 2010), *incorporating*, Application for Review of Action Taken Pursuant to Delegated Authority filed by SBC Communications, Inc. (contesting Bureau imposed one-year revision deadline for refunds as a substantive rule imposed without APA due process).

completion of such process and procedure, there is no binding legal obligation supporting USAC's decision, and it must be reversed.

III. CONCLUSION

BCI's revenues at issue are entirely intrastate revenues. There is no binding legal obligation that BCI classify a portion of these revenues as interstate for purposes of determining BCI's USF contribution. Accordingly, USAC lacks a legal basis for reclassifying a portion of BCI's intrastate revenues as interstate revenues on BCI's Form 499-A. For these and the other foregoing reasons, BCI respectfully requests that the Commission reverse USAC's decision.

Respectfully submitted,

Blackfoot Communications, Inc.

By: 

Gregory W. Whiteaker
Donald L. Herman, Jr.
Herman & Whiteaker, LLC
P.O. Box 341684
Bethesda, MD 20827
202-600-7272
Its attorneys

July 22, 2011

ATTACHMENT I



Administrator's Decision on Fixed Local Issue

Via Electronic and Certified Mail

June 1, 2011

Mr. Theodore Otis
Chief Financial Officer
Blackfoot Communications, Inc.
1221 N. Russell Street
Missoula, MT 59808

Re: Blackfoot Communications, Inc. (Filer ID No. 818046)
2010 FCC Form 499-A and Interstate Portion of Fixed Local Revenue

Dear Mr. Otis:

The Universal Service Administrative Company (USAC) has reviewed the 2010 FCC Form 499-A (Form) filed by Blackfoot Communications, Inc. (BCI) on April 2, 2010. Subsequent to this review, USAC sent a letter of inquiry to the preparer of the form, Brenda Marsh, on October 27, 2010, regarding the absence of the reporting of either interstate revenues associated with the fixed local service revenues reported on line 404.3 of the Form or subscriber line charge (SLC) revenues on line 405 of the Form (Attachment A), as required by the 2010 FCC Form 499-A Instructions (Instructions).

Ms. Carol Giamona originally replied to the letter of inquiry on December 10, 2010, requesting an extension for a response which was granted by USAC until January 14, 2011. On this date, Ms. Giamona responded to the questions in the letter of inquiry first clarifying that BCI was not charging its customers a SLC. Furthermore, Ms. Giamona explained that BCI had reported local exchange service revenues as intrastate revenues due to BCI's research and understanding of the Instructions. Specifically, Ms. Giamona stated that BCI did not break out any of the local exchange revenue reported on line 404.3 because it was not able to identify a rate element targeted to recovering the local loop and it does not bundle interstate services into its local exchange service charges (Attachment B). However, per the Instructions, when a filer does not charge a SLC, the filer is required to report the interstate portion of fixed local exchange service revenues.¹

USAC continued to correspond with Ms. Giamona, copying you and Ms. Brenda Marsh, via email restating the obligation to derive and report the interstate portion of the fixed local service. Specifically, on March 1, 2011, USAC provided Ms. Giamona with four

¹ Instructions to the Telecommunications Reporting Worksheet, FCC Form 499-A (2010), at 25.

Theodore Otis
Blackfoot Communications, Inc.
June 1, 2011
Page 2

suggested methods for deriving the interstate portion of fixed local service (Attachment C). USAC has not received further correspondence from BCI in response to the issues outlined in this March 1, 2011 email.

On its 2010 FCC Form 499-A, BCI reported [REDACTED] of fixed local service revenues on line 404.3 as 100 percent intrastate without reporting the interstate portion of these revenues as required by the Instructions. In the absence of additional information demonstrating the interstate portion of BCI's fixed local service revenues, to be provided by BCI to USAC in writing within ten (10) business days of the date of this letter, USAC will create an estimate of the interstate portion of the 2010 revenue. This estimate will be based on the national average percentage of the fixed local exchange revenues from calendar year 2008 reported as interstate by the Regional Bell Operating Companies published in the Telecommunications Industry Revenue Report found at http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-301407A1.pdf.² Additional information should be provided to Mrs. Debbie Tosi at the address listed at the bottom of this letter.

Specifically, the USAC estimate will derive the interstate portion of the fixed local service revenues of [REDACTED] reported by BCI by multiplying those revenues times 16.7 percent yielding [REDACTED] of interstate revenues, which will be reported on line 404.3, column (d). This calculation will not be applied to any other lines on the form. Upon completion of this estimate, USAC will bill BCI for the additional contribution amount in three equal installments during the third quarter of 2011.

This letter serves as the decision of the USF Administrator. If you wish to appeal this decision, you may file an appeal with the FCC. Detailed instructions for filing appeals are available at:

<http://www.universalservice.org/fund-administration/contributors/file-appeal>.

Sincerely,

USAC

cc: Ms. Brenda Marsh (via email)
Ms. Carol Giamona (via email)

² An average of 16.7% was derived from the fixed local service and SLC revenues shown on Table 6 of the report as follows: \$6,219/\$30,997+\$6,342. Dollar amounts in Millions.

ATTACHMENT A



Written Response Required by
December 8, 2010

Via certified mail

October 27, 2010

Blackfoot Communications, Inc.
Attn: Brenda Marsh
1221 N. Russell St.
Missoula, MT 59808

Re: 2010 FCC Form 499-A Inquiry: Blackfoot Communications, Inc. - 499 Filer 818046

Dear Brenda Marsh:

The Universal Service Administrative Company (USAC) conducted a review of the revenue reported on Lines 404.1, 404.2, and 404.3 of the 2010 FCC Form 499-A for fixed local services. The findings of this analysis indicate insufficient reporting of subscriber line charges as interstate revenue. Specifically, Blackfoot Communications, Inc. - 818046 reported fixed local exchange revenue on Line[s] 404.1, 404.2, and/or 404.3 and no portion of this reported revenue was broken out as interstate revenue.

Carriers are permitted to impose a flat rate charge ("federal subscriber line charge" or "SLC") on end users to recover the interstate allocated portion of local loop costs.¹ If a carrier charges a separate federal subscriber line charge along with charges for fixed local exchange, revenues from the federal SLC should be identified as interstate.² Therefore, if Blackfoot Communications, Inc. has received revenue from a federal subscriber line charge, that revenue should be reported as one hundred percent interstate on line 405 of the FCC Form 499-A.

If a carrier does not charge a separate federal subscriber line charge along with charges for fixed local exchange, the carrier must identify the interstate portion of fixed local exchange service revenues as interstate as these revenues correspond to the costs associated with allowing customers to originate and terminate interstate calls.³

¹ See 47 C.F.R. § 69.152.

² FCC Form 499-A Instructions (2010), p. 21.

³ FCC Form 499-A Instructions (2010), p. 25.



Therefore, since local exchange revenue was reported on the 2010 FCC Form 499-A, there should also be revenue reported as interstate as described above.

Please provide USAC with responses to the following questions:

1. Is Blackfoot Communications, Inc. charging a separate federal subscriber line charge?
2. Is the underlying carrier charging a federal subscriber line charge that Blackfoot Communications, Inc. is passing on to its customers?
3. Please explain why Blackfoot Communications, Inc. has not broken out any of the local exchange revenue reported as interstate per the FCC Form 499-A Instructions cited herein.

Additionally, please provide USAC with a copy of one typical invoice sent to customers for the local exchange service.

Please send responses to this inquiry and the copy of the invoice directly to Deborah Tosi, USAC, at the address identified below or dtosi@usac.org. All documentation forwarded to USAC will be treated as confidential information pursuant to applicable FCC regulations.⁴

Please note that, on March 31, 2011 the window to submit a downwardly revised 2010 FCC Form 499-A will close. If your company intends to downwardly revise the revenue reported on its 2010 FCC Form 499-A, USAC must receive the revised form on or before March 31, 2011. An upward revision may be filed at anytime.

If you have questions regarding this request please contact Deborah Tosi, USAC, at 202-772-5224 or dtosi@usac.org.

Sincerely,

A handwritten signature in dark ink, appearing to read "Deborah Tosi", is written over a light-colored background.

Deborah Tosi
USAC – Sr. Financial Analyst
202-772-5224

⁴ See 47 C.F.R. § 54.711(b).

ATTACHMENT B

[REDACTED]

ATTACHMENT C

From: Debbie Tosi
Sent: Tuesday, March 01, 2011 8:41 AM
To: 'Carol Giamona'
Cc: Ted Otis; Brenda Marsh
Subject: RE: 2010 FCC Form 499-A Inquiry - Blackfoot Communications (818046)

Dear Ms. Giamona,

Thank you for your thorough responses to my October 27, 2010 letter regarding the 2010 FCC Form 499-A for Blackfoot Communications, Inc. (BCI) – Filer ID 818046.

The FCC Form 499-A Instructions are specific concerning fixed local exchange service. There is no exception given for carriers, including Competitive Local Exchange Carriers (CLECs), to the requirement to determine and report the interstate portion of fixed local exchange service revenues. Specifically, the instructions state on page 25:

Note that federal subscriber line charges typically represent the interstate portion of fixed local exchange service. Filers without subscriber line charge revenue must identify the interstate portion of fixed local exchange service revenues in column (d) of the appropriate line 404.1-404.5.

With respect to the specific points in your email:

1. Thank you for the confirmation that BCI is not charging a federal subscriber line charge. However, this does not negate BCI's obligation to report the interstate portion of its fixed local exchange product. In fact, the FCC Form 499-A Instructions specifically address filers without subscriber line charge revenue in the reference above.
2. From your description in #2, in some incidental cases BCI is indeed passing on a federal subscriber line charge, although it may be bundled and called a different product. If BCI does not have a tariffed subscriber line charge then the interstate portion of the fixed local service is reported as interstate on the line(s) 404.1, 404.2 or 404.3 along with the fixed local revenue and not on line 405 where federal subscriber line charge revenue is reported.
3. It is the FCC Form 499-A Instructions that explicitly state that the interstate portion of the fixed local exchange revenue must be identified and reported as interstate independent of whether a filer has a binding tariff or other rate element for recovering the local loop. BCI's understanding of the FCC Form 499-A Instructions to report fixed local exchange service as 100% intrastate is incorrect. However, the instructions do not provide a specific method for determining the interstate portion. There does, however, need to be a basis for any derived calculation. Additionally, the FCC provides further information regarding the requirement to report a portion of fixed local as interstate as follows: "Carriers other than ILECs do not participate in the formal separations process that our rules mandate for ILECs and hence do not charge SLCs nor distinguish between the interstate and intrastate portion of their charges and costs." This FCC Order goes on to state: "Rather, we note that a portion of every carrier's charge can be attributed to the interstate jurisdiction, whether or not the carrier formally participates in the separations procedure." (*In the Matter of Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, FCC 97-157, 12 FCC Rcd 8776, ¶ 366 (1997)).

USAC suggests that one of the following methods could be used to determine the interstate portion of fixed local exchange service revenues:

1. Use the Subscriber Line Charge (SLC) of the Incumbent LEC and apply it against the number of fixed local exchange lines for the given period.^[1]
2. Similar to number one but since overall prices may differ between carriers, derive an interstate percentage based on the Incumbent LEC's SLC as compared to its fixed local rate and apply it against your company's fixed local exchange revenues.
3. Use the national average percentage of the fixed local exchange revenues from calendar year 2008 reported as interstate by the Regional Bell Operating Companies published in the Telecommunications Industry Revenue Report found at (http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-301407A1.pdf).^[2]
4. Perform a traffic study

In order for your company to be in compliance with the FCC Form 499-A Instructions, the interstate portion of the fixed local service must be calculated and then reported on the FCC Form 499-A as 100% interstate.

Please provide me with an explanation of how this interstate portion will be derived and file a revision to the 2010 FCC Form 499-A to correct this revenue currently reported at 100% intrastate.

Regards,

Debbie Tosi
202-772-5224

^[1] In the Matter of Cost Review Proceeding for Residential and Single-Line Business Subscriber Line Charges (SLC) Caps, CC Dockets 96-262, 94-1, Order, FCC 02-161, 17 FCC Rcd 10868, n.8 ("Although the Commission has, in many instances chosen not to regulate the rates charged by competitive LECs, including SLCs, we note that competitive LECs may look to the SLCs assessed by incumbent LECs as a benchmark in setting their own SLCs.").

^[2] An average of 16.7% was derived from the fixed local service and SLC revenues shown on Table 6 of the report as follows: \$6,219/\$30,997. Dollar amounts in Millions.

DECLARATION OF THEODORE OTIS

I, Theodore Otis, do hereby declare under penalty of perjury the following:

I am the Chief Financial Officer of Blackfoot Communications, Inc.

I have read the foregoing "Request for Review of Decision of Decision of Universal Service Administrator" and accompanying Request for Confidential Treatment. I have personal knowledge of the facts set forth therein, and I believe them to be true and correct.



Theodore Otis
Chief Financial Officer
Blackfoot Communications, Inc.

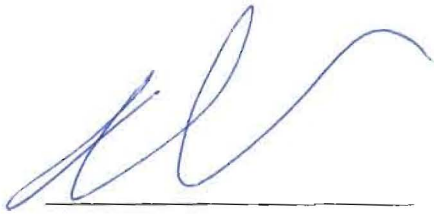
7.22.11

Date

CERTIFICATE OF SERVICE

I, Donald L. Herman, Jr., a principal with the law firm of Herman & Whiteaker, LLC, hereby certify that on this 22nd day of July, 2011, a copy of the foregoing Request for Review by Blackfoot Communications, Inc. of Decision of Universal Service Administrator in WC Docket No. 06-122, is being sent via U.S. mail, first class postage paid, to the following:

Universal Service Administrative Company
Attn: David Capozzi, Acting General Counsel
2000 L Street, NW Suite 200
Washington, DC 20036

A handwritten signature in blue ink, appearing to read 'DLH', is written over a horizontal line.

Donald L. Herman, Jr.